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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,175	09/12/2003	Clarence E. Thomas	068062.0168	7513
31625	7590	11/28/2007	EXAMINER	
BAKER BOTTS L.L.P.			LEE, HWA S	
PATENT DEPARTMENT				
98 SAN JACINTO BLVD., SUITE 1500			ART UNIT	
AUSTIN, TX 78701-4039			2886	
			MAIL DATE	
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			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/661,175

Applicant(s)

THOMAS ET AL.

Examiner

Andrew Hwa S. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-12, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 33, and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 10-12, 33, and 34, are rejected under 35 U.S.C. 103(a) as being unpatentable over Medford et al (US 6,608,717).

For claims 1 and 8, Medford et al (Medford hereinafter) show a optical coherence microscope apparatus and method comprising:

an illumination lens operable to focus a reference beam;

a beam splitter (2x2 coupler) optically coupled to the illumination lens by the reference beam; and

a reference mirror (1-D scanning mirror) located at a waist of the reference beam and configured such that the reference beam is reflected from the reference mirror to the beam splitter.

Although Medford may not expressly state the functional use of the elements, such as the use of word "operable", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably

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distinguish the claimed invention from the prior art. As presently claimed, there is no structural difference.

With regards to the limitation “to eliminate the need for a reference objective on a reference arm,” that limitation does not further define the structure of the holography system. In addition the intention of using a reference mirror to eliminate the need for a reference objective does not further define the structure of the system. Medford shows a structure of an illumination lens, a beam splitter, and a reference mirror located at a waist of the reference beam and configured such that the reference beam is reflected from the reference mirror to the beam splitter.

With regards to the method claim 8, “eliminating the need for...” only states the purpose or the capability of the reference mirror which is not a step. Therefore, there is no difference to the steps of the method claim. Medford shows the step of focusing a reference beam with an illumination lens, the step of transmitting at least a portion of the reference beam through a beam splitter, and the step of reflecting the portion of the reference beam.

With regards to claim 2, Medford shows the apparatus configured with optical fibers and does not expressly show the use of a cube beam splitter. Official Notice is taken that cube beam splitters are well known in the art and at the time of the invention one of ordinary skill in the art would have used a cube beam splitter since it is well known to arrange interferometers in either an optical fiber arrangement or a bulk optical element arrangement. Since a cube beam splitter is a well known bulk optical element for splitting a beam, the skilled artisan would have used a cube beamsplitter in the bulk optical arrangement.

With respect to claims 4 and 12, the beams are Gaussian (column 7, lines 12+).

With regards to claim 5, Medford shows the reference mirror comprises a flat mirror (e.g. see Figure 10).

With regards to claims 6 and 11, Medford shows the reference mirror operable to maintain optical symmetry of a reference arm and a target arm (column 7, line 39).

With regards to claims 7 and 10, the reference mirror would be inherently operable to form a first wavefront substantially similar to a second wavefront formed by the reference objective.

With respect to claim 33, the claim does not further limit claim 8 drawn to a method by reciting a step or manipulatively further defining a previously recited step. The claim merely recites a capability (“operable to”) of the reference mirror, and thus Medford meets the limitation of claim 33.

With respect to claim 34, the claim does not further limit claim 8, which is drawn to a method, by reciting a step or manipulatively further defining a previously recited step. The claim merely recites the structure of the reference mirror, and thus Medford meets the limitation of claim 34.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Hwa S. Lee whose telephone number is 571-272-2419. The examiner can normally be reached on Tue-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarifur R. Chowdhury can be reached on 571-272-2800. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Hwa S. Lee
Primary Examiner
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